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Draft report

XI. General exchange of information on non-legally binding United Nations instruments on outer space

1. Pursuant to General Assembly resolution 69/85, the Subcommittee considered agenda item 11, entitled "General exchange of information on non-legally binding United Nations instruments on outer space", as a single issue/item for discussion.

2. The representatives of Austria, Brazil, Canada, Chile, China, Cuba, the Czech Republic, France, Germany, Greece, Italy, Japan, Mexico, the Netherlands, the Republic of Korea, the Russian Federation, Spain, the United Kingdom, the United States and Venezuela (Bolivarian Republic of) made statements under agenda item 11. A statement was made by Chile on behalf of the Group of Latin American and Caribbean States. Statements were made by the observers for ESA and ILA. A statement was also made by the representative of Luxembourg, together with the observer for the European Union, on behalf of the European Union. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

3. The Subcommittee had before it a conference room paper prepared by Japan entitled "Questionnaire on general exchange of information on non-legally binding United Nations instruments on outer space" (A/AC.105/C.2/2015/CRP.24/Rev.1).

4. The Subcommittee was informed that the multilateral negotiations on the initiative for an international code of conduct for outer space activities would take place from 27 to 31 July 2015 in New York, and that all United Nations Member States would be invited.

5. The Subcommittee welcomed the exchange of information under this item and noted that existing non-legally binding United Nations instruments related to space activities had played an important role by complementing and supporting the United

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Nations treaties on outer space, and that they continued to be an effective means to address emerging challenges posed by the increase and diversification of activities in outer space, and to serve as a basis for ensuring the safe and sustainable use of outer space.

6. The Subcommittee encouraged States members of the Committee, as well as international intergovernmental organizations having permanent observer status with the Committee, to respond, on a voluntary basis and as appropriate, to the questionnaire contained in A/AC.105/C.2/2015/CRP.24/Rev.1, and to submit their responses to the delegation of Japan, which was invited to prepare a compilation of responses to be submitted to the Subcommittee during its fifty-fifth session.

7. Some delegations expressed the view that the goals as set forth in the questionnaire could be more appropriately addressed in discussions of the Subcommittee under agenda item 7, on national legislation relevant to the peaceful exploration and use of outer space.

8. Some delegations expressed the view that the questionnaire limited the discussion to the existing non-legally binding United Nations instruments.

9. The Subcommittee recalled paragraph 197 of the report of the Legal Subcommittee on its fifty-third session, in 2014 (A/AC.105/1067), whereby the Subcommittee agreed that under this agenda item, "member States could, as appropriate, discuss other non-legally binding instruments on outer space, as well as the relationship between legally binding and non-legally binding instruments."

10. Some delegations expressed the view that discussions under this agenda item should not be confined to examining solely the non-legally binding United Nations instruments, and that the task of the Legal Subcommittee was to examine all non-legally binding instruments, those existing as well as those under development, such as the draft international code of conduct for outer space activities, that could have a long-term impact on the peaceful use of outer space, as well as the safety and long-term sustainability of outer space activities.

11. Some delegations expressed the view that only existing non-legally binding United Nations instruments should be discussed under this agenda item, in accordance with the objectives of the item, as contained in document A/AC.105/C.2/L.288.

12. Some delegations expressed the view that the scope of this agenda item should be broad, in line with the agreement mentioned in paragraph 197 of the report of the Legal Subcommittee on its fifty-third session, and that the item should be entitled "General exchange of information on non-legally binding instruments and initiatives related to peaceful use of outer space".

13. Some delegations expressed the view that the exchange of information under this agenda item would assist States in their deliberations and would shed light on and clarify the use of non-legally binding United Nations instruments on outer space.

14. Some delegations expressed the view that an exchange of information on the non-legally binding principles and technical guidelines developed by the Committee on the Peaceful Uses of Outer Space was especially welcome in view of the recommendation contained in the report of the Group of Governmental Experts on

Transparency and Confidence-Building Measures in Outer Space Activities (A/68/189) that Member States take measures to implement, to the greatest extent practicable, principles and guidelines endorsed on the basis of consensus by the Committee on the Peaceful Uses of Outer Space and the General Assembly.

15. The view was expressed that the Committee on the Peaceful Uses of Outer Space was the appropriate forum for discussions on the further development of space law and its application, and that the deliberations on the draft international code of conduct for outer space activities should be conducted in the Committee in the overall context of the topic on the long-term sustainability of outer space activities and in view of the recommendations of the Group of Governmental Experts.

16. The view was expressed that one of the most important roles for international lawyers in facilitating successful international cooperation was that of identifying the optimal cooperative mechanism in any given case, including when a non-legally binding mechanism might facilitate the objectives of cooperation better than a treaty. The delegation expressing that view was also of the view that the Principles Relating to Remote Sensing of the Earth from Outer Space, which were widely credited with fostering a successful international regime in remote sensing to the benefit of all States, and the Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters (also called the International Charter on Space and Major Disasters) served as excellent examples of such mechanisms.

17. The Subcommittee agreed that this item should be retained on the agenda of the Subcommittee at its fifty-fifth session to continue the debate on both the substance and the scope of this item.

XII. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fifth session

18. Pursuant to General Assembly resolution 69/85, the Subcommittee considered agenda item 13, entitled "Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fifth session", as a regular item on the agenda. Under the item the Subcommittee also considered matters related to the organization of work.

19. The representatives of Algeria, Austria, Brazil, Canada, Chile, the Czech Republic, France, Germany, Indonesia, Italy, Japan, Mexico, Morocco, the Netherlands, the Republic of Korea, the Russian Federation, South Africa, Spain and the United States made statements under agenda item 13. During the general exchange of views, statements relating to the item were also made by representatives of other member States. The observers for ITU and SWF also made statements under the item.

20. The Subcommittee had before it the following:

(a) Working paper submitted by Germany entitled "Proposal for a renewal of the structure of the agenda and the organization of work of the Legal Subcommittee" (A/AC.105/C.2/L.293/Rev.2);

(b) Working paper submitted by the Secretariat entitled "Review of the use of transcripts of the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee" (A/AC.105/C.2/L.282);

(c) Note by the past, present and incoming Chairs of the Committee on the Peaceful Uses of Outer Space entitled "2018 'UNISPACE+50' theme of the Scientific and Technical Subcommittee, the Legal Subcommittee and the Committee on the Peaceful Uses of Outer Space" (A/AC.105/C.2/2015/CRP.10);

(d) Proposal by Germany for a single issue/item for discussion at the fifty-fifth session of the Legal Subcommittee: "Exchange of views on the concept of space traffic management" (A/AC.105/C.2/2015/CRP.13);

(e) Proposal by Brazil for a single issue/item for discussion at the fifty-fifth session of the Legal Subcommittee "Exchange of views on the application of international law on small satellite activities" (A/AC.105/C.2/2015/CRP.23);

(f) Proposal by the Group of Latin American and Caribbean States for a single issue/item for discussion at the fifty-fifth session of the Legal Subcommittee: "Exchange of views on the application of international law to small satellite activities" (A/AC.105/C.2/2015/CRP.23/Rev.1).

A. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-fifth session

21. The Subcommittee agreed that the three single issues/items for discussion, entitled "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", "General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee" and "General exchange of information on non-legally binding United Nations instruments on outer space", should be retained on the agenda of the Subcommittee at its fifty-fifth session.

22. The Subcommittee agreed that a new single issue/item for discussion entitled "General exchange of views on the legal aspects of space traffic management" should be included on the agenda of the Subcommittee at its fifty-fifth session, on the basis of conference room paper A/AC.105/C.2/2015/CRP.13.

23. The Subcommittee agreed that a new single issue/item for discussion entitled "General exchange of views on the application of international law to small satellite activities" should be included on the agenda of the Subcommittee at its fifty-fifth session, on the basis of conference room paper A/AC.105/C.2/2015/CRP.23/Rev.1, and that ITU should be invited to update the Subcommittee at its fifty-fifth session on relevant developments and issues regarding ITU procedures and regulations applicable to small satellites.

24. The Subcommittee agreed on the following items to be proposed to the Committee for inclusion in the agenda of the Subcommittee at its fifty-fifth session:

Regular items

1. Adoption of the agenda.
2. Election of the Chair
3. Statement by the Chair.
4. General exchange of views.
5. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
6. Status and application of the five United Nations treaties on outer space.
7. Matters relating to:
   (a) The definition and delimitation of outer space;
   (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.
8. National legislation relevant to the peaceful exploration and use of outer space.
9. Capacity-building in space law

Single issues/items for discussion

10. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
11. General exchange of information and views on legal mechanisms relating to space debris mitigation measures, taking into account the work of the Scientific and Technical Subcommittee.
12. General exchange of information on non-legally binding United Nations instruments on outer space.
13. General exchange of views on the legal aspects of space traffic management.
14. General exchange of views on the application of international law to small satellite activities.

Items considered under workplans

15. Review of international mechanisms for cooperation in the peaceful exploration and use of outer space.

    (Work for 2016 as reflected in the multi-year workplan in the report of the Legal Subcommittee on its fifty-first session (A/AC.105/1003, para. 179))

New items

16. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-sixth session.

25. The Subcommittee agreed that ECSL and IISL should again be invited to organize a symposium, to be held during its fifty-fifth session, and noted that delegations wishing to propose topics for the symposium could do so directly to the organizers.

26. The Subcommittee noted that its fifty-fifth session had been tentatively scheduled to be held from [...] to [...] 2016.

B. Organizational matters

27. The Subcommittee took note of the revised proposal by Germany for the renewal of the structure of the agenda and organization of work of the Legal Subcommittee, as contained in document A/AC.105/C.2/L.293/Rev.2.

28. Some delegations reiterated the view that the proposal by Germany constituted a timely and constructive effort to simplify the structure of the Subcommittee's agenda and to make more efficient use of the sessions of the Subcommittee.

29. Some delegations reiterated the view that, while the intention of the proposal by Germany was welcome, in particular on the restructuring of the schedule of work of the Subcommittee, some elements of the proposal needed further clarification and elaboration, including on the proposed new structure with preparatory groups and working groups.

30. In the discussion under the agenda item, Germany was invited to continue carrying out open-ended consultations in order to further elaborate on its proposal contained in A/AC.105/C.2/L.293/Rev.2, with a view to presenting to the Subcommittee a revised document taking into account comments by member States.

31. Some delegations expressed the view that there should be increased synergy and cooperation between the Scientific and Technical Subcommittee and the Legal Subcommittee, in order to further enhance consistency in the work of the Committee and its Subcommittees and to further the understanding and application of existing legal instruments relating to space law.

32. The view was expressed that the Committee should review its current practice of making decisions through consensus.

33. The Subcommittee considered the note by the past, present and incoming Chairs of the Committee on the Peaceful Uses of Outer Space entitled "2018 'UNISPACE+50' theme of the Scientific and Technical Subcommittee, the Legal Subcommittee and the Committee on the Peaceful Uses of Outer Space", contained in A/AC.105/C.2/2015/CRP.10.

34. The Subcommittee agreed to the main proposal put forward in that conference room paper and requested the Secretariat, in close consultation with the past, present and incoming Chairs of the Committee, to develop their proposal in further detail and to present it in the six official languages of the United Nations for consideration

by the Committee at its fifty-eighth session, in June 2015, taking into account the recommendations made by the Scientific and Technical Subcommittee at its fifty-second session (A/AC.105/1088, annex I, para. 4).

35. In accordance with the decision made by the Legal Subcommittee in 2011 (A/AC.105/990, para. 198), and on the basis of the proposal made by the Secretariat to discontinue the use of unedited transcripts (see A/AC.105/C.2/L.282), the Subcommittee agreed to use digital recordings on a permanent basis, and agreed that the digital recording application should be further enhanced.